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14 Attorneys for Plaintiff
15 AMERICAN SMALL BUSINESS LEAGUE

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18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA
20 OAKLAND DIVISION

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23 AMERICAN SMALL BUSINESS
24 LEAGUE,

25 Plaintiff,

26 v.

27 UNITED STATES OFFICE OF
28 MANAGEMENT AND BUDGET,

Defendant.

CASE NO. 4:20-cv-07126-DMR

**DECLARATION OF IRENE LEE IN
SUPPORT OF PLAINTIFF AMERICAN
SMALL BUSINESS LEAGUE'S
OPPOSITION TO DEFENDANT UNITED
STATES OFFICE OF MANAGEMENT
AND BUDGET'S MOTION FOR
SUMMARY JUDGMENT AND CROSS-
MOTION FOR SUMMARY JUDGMENT**

29
30 Date: April 28, 2022
31 Time: 1:00 p.m.
32 Place: Zoom
33 Judge: The Honorable Donna M. Ryu

1 I, IRENE LEE, declare as follows:

2 1. I am a member in good standing of the State Bar of California. My law firm,
3 Cannata, O'Toole, Fickes & Olson, LLP, is counsel of record for Plaintiff American Small
4 Business League ("Plaintiff" or "ASBL") in this case. I make this declaration of personal
5 knowledge and if called as a witness I could and would testify competently to the facts stated
6 herein, except as to matters stated on information and belief, and as to them I believe them to be
7 true.

8 2. On April 7, 2020, ASBL submitted Freedom of Information Act ("FOIA") Request
9 No. 2020-319 to Defendant United States Office of Management and Budget ("Defendant" or
10 "OMB"). Attached as **Exhibit A** is a true and correct copy of this FOIA request.

11 3. On June 9, 2020, OMB issued its initial determination of ASBL's FOIA request,
12 stating that it has no responsive records, but recommended that ASBL review The President's
13 Budget, published by the OMB. Attached as **Exhibit B** is a true and correct copy of the OMB's
14 initial determination.

15 4. On June 11, 2020, ASBL sent an email correspondence to OMB stating that it
16 could not locate responsive records using the source provided. Attached as **Exhibit C** is a true
17 and correct copy of ASBL's email correspondence dated June 11, 2020.

18 5. On June 12, 2020, OMB responded to ASBL's email correspondence dated June
19 11, 2020 and recommended additional sources that ASBL should review. Attached as **Exhibit D**
20 is a true and correct copy of OMB's email correspondence dated June 12, 2020.

21 6. On June 19, 2020, ASBL sent an email correspondence to OMB stating that it
22 could not locate responsive records using the additional sources provided. Attached as **Exhibit E**
23 is a true and correct copy of ASBL's email correspondence dated June 19, 2020. ASBL did not
24 receive a response to this correspondence.

25 7. On July 17, 2020, ASBL filed a formal administrative appeal of FOIA Request No.
26 2020-319. Attached as **Exhibit F** is a true and correct copy of ASBL's administrative appeal.

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1 8. OMB confirmed receipt of this administrative appeal on July 17, 2020. Attached
2 as **Exhibit G** is a true and correct copy of OMB's confirmation of receipt of ASBL's
3 administrative appeal. ASBL did not receive a response from the OMB to this administrative
4 appeal.

5 9. On October 13, 2020, ASBL filed its complaint in this action. Defendants OMB
6 and the SBA filed a motion to sever the claims against the two defendants, which was granted on
7 April 21, 2021.

8 10. On March 12, 2021, OMB's counsel sent an email correspondence to ASBL's
9 counsel reiterating OMB's position that it does not have responsive records and providing
10 additional sources for ASBL to review. Attached as **Exhibit H** is a true and correct copy of
11 OMB's email correspondence dated March 12, 2021.

12 11. On March 15, 2021, ASBL sent a letter to OMB in response to OMB's email
13 correspondence dated March 12, 2021. Attached as **Exhibit I** is a true and correct copy of
14 ASBL's letter dated March 15, 2021.

15 12. On October 5, 2021, at the parties' request, a settlement conference was held, but a
16 settlement was not reached.

17 13. On October 7, 2021, ASBL sent a follow-up correspondence to OMB shedding
18 light on why it believes that the agency has responsive records. Attached as **Exhibit J** is a true
19 and correct copy of ASBL's email correspondence dated October 7, 2021.

20 14. On November 9, 2021, OMB responded to ASBL's inquiries. Attached as **Exhibit**
21 **K** is a true and correct copy of OMB's email correspondence dated November 9, 2021.

22 15. On December 2, 2021, ASBL responded to OMB's November 9, 2021 email
23 correspondence. Attached as **Exhibit L** is a true and correct copy of ASBL's email
24 correspondence dated December 2, 2021. ASBL has not received a response to this
25 correspondence as of the date of this filing.

26 16. Attached as **Exhibit M** is a true and correct copy of the *Joint Statement of Janet L.*
27 *Yellen, Secretary of the Treasury, and Shalanda D. Young, Acting Director of the Office of*
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Management and Budget, on Budget Results for Fiscal Year 2021, published on October 22, 2021 by the White House.

3 I declare under penalty of perjury under the laws of the United States of America that the
4 foregoing is true and correct.

5 Executed this 10th day of February 2022 in San Francisco, California.

Irene Lee
IRENE LEE

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